

## **PUBLIC SAFETY ADVISORY BOARD (PSAB) RECOMMENDATIONS TO THE GOVERNOR'S WORKING GROUP ON JUSTICE POLICY REFORM – October 2015**

The Iowa General Assembly, during its 2010 legislative session, created the Public Safety Advisory Board (PSAB). The purpose of the PSAB is to provide the General Assembly with an analysis of current and proposed criminal code provisions. The mission of this PSAB is to provide research, evaluation, and data to the General Assembly to facilitate improvement in the criminal justice system in Iowa in terms of public safety, improved outcomes, and appropriate use of public resources. The Division of Criminal and Juvenile Justice Planning (CJJP) provides staff support for the PSAB. The duties of the PSAB are enumerated in Iowa Code, Section 216A.133A.

The following policy recommendations to the Governor's Working Group on Justice Policy Reform are the result of many justice policy issues studied and researched by the PSAB.

### **Implementation of Results First in Iowa's Corrections and Juvenile Justice Systems**

The Pew-MacArthur Results First Initiative is a joint project of the Pew Charitable Trusts and the John D. and Catherine T. MacArthur Foundation that works with states to implement an innovative cost-benefit analysis approach to help them invest in policy and programs that are evidence-based and proven to work. The principal tool of the approach is a cost-benefit analysis model initially developed by the Washington State Institute for Public Policy, and now supported by the Pew-MacArthur Results First Initiative. Currently, 19 states are participating in Results First, and have used the model to target \$80 million in funding for effective programs that are projected to generate as much as \$38 in social benefits for each \$1 invested.

In 2012, the Iowa Department of Corrections (DOC) launched Results First to evaluate adult corrections programs and calculated the rate of return on investment for Iowa adult offender programs in three program areas: institutional programs, community programs for prison releases, and community programs for higher risk probationers. Based on the results, changes were implemented to improve services for offenders. It is time to update the analysis.

The PSAB is recommending completing an updated cost-benefit analysis for correctional services and expanding Results First to juvenile justice, mental health, substance abuse, and child welfare services in Iowa.

### **Changes to Iowa's Robbery Mandatory Minimum Sentencing<sup>1</sup>**

A 2013 analysis studied mandatory minimum sentences imposed by §902.12 of the Iowa Code (the "70% rule") and has concluded that the current law does not meet the public safety needs of Iowans. Evidence also suggests that 70% sentences disproportionately affect minorities. 37% of offenders serving mandatory minimums are African-American, however African-Americans comprise approximately 26% of the total prison population.

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<sup>1</sup> [https://humanrights.iowa.gov/sites/default/files/media/Violent\\_Offender\\_70Pct\\_Report%5B1%5D.pdf](https://humanrights.iowa.gov/sites/default/files/media/Violent_Offender_70Pct_Report%5B1%5D.pdf)

The PSAB offers the following recommendations:

- As in current law, robbery should remain a forcible felony that requires incarceration.
- Continue the current 15% cap on earned time for robbery offenses covered by §902.12. While this option contributes to larger prison populations, it increases public safety by permitting the incapacitation of the more dangerous and violent offenders.
- Establish a mandatory minimum term of seven years for Robbery in the First Degree and three years for Robbery in the Second Degree. These recommended minimum sentences are consistent with the average length-of-stay for robbers prior to establishment of the 70% sentence. They would require imprisonment of robbers for a period consistent with the seriousness of robbery offenses while allowing the Board of Parole discretion to consider possible release between expiration of the mandatory minimum and the maximum 85% term. While allowing for earlier release of lower-risk inmates, this proposal also would permit lengthy incarceration of those individuals at high risk to reoffend or those individuals who pose a significant threat to public safety.

This proposal modifies the “one size fits all” mandatory minimum of current law, providing more discretion to the DOC (in recommending early release) and the Board of Parole (in considering work release or parole) over a time period longer than currently permitted. It will reduce unnecessary incarceration of lower risk offenders by allowing the Board of Parole to consider earlier release based upon institution programming and behavior, offender maturation, recommendations by DOC, and other factors.

### **Modifying Penalties for Powder and Crack Cocaine<sup>2</sup>**

In Iowa, prohibited acts involving more than 10 grams but less than 50 grams of crack currently carry the same penalty as offenses involving more than 100 but less than 500 grams of powder cocaine. Iowa data presented to the PSAB suggest that this disparity in penalties contributes to disproportionate incarceration of African-Americans. Data were also presented pertaining to the amounts of crack and powder cocaine seizures. Research was presented illustrating that the physiological and psychotropic effects of crack and powder cocaine are the same, and that the drugs are now widely acknowledged as pharmacologically identical.

As a result of an analysis examining the effects of the sentencing discrepancy between crack and powder cocaine, the PSAB continues to support modifying the penalties for crack and powdered cocaine.

Amend Iowa Code §124.401 for the amounts of crack cocaine.

- a. §124.401(a)(3) to greater than 125 grams
- b. §124.401(b)(3) to greater than 35 grams and not more than 125 grams
- c. §124.401(c)(3) to equal to or less than 35 grams

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<sup>2</sup> <http://www.humanrights.iowa.gov/cjip/images/pdf/PSAB%202011%20Report.pdf>

### **Modifying Special Sentence for Sex Offenders<sup>3</sup>**

In Iowa, offenders convicted of a sex offense must serve a mandatory community-based supervision term known as the special sentence, upon completion of the original sentence. Offenders convicted of an A, B, or C felony receive lifetime supervision. Sex offenders convicted of a D felony or lower sex crime are to be supervised under the special sentence for 10-years. A 2014 analysis examining the effectiveness of this supervision found that baseline sex offender re-offense is low regardless of whether special sentence supervision is utilized. This analysis also found that the cost to implement the special sentence is exceptionally high.

Following the results of this analysis, the PSAB is recommending that the:

Imposition of the special sentence would remain as it is today, with the added provision to give the court the opportunity to review and reduce the special sentence. The change to current policy will allow the court to remove an offender from the special sentence supervision based on an evidentiary hearing that reviews information believed to be pertinent to special sentence placement (the nature of the sex offense, the offender's institutional behavior, sex offender treatment compliance, court mandate compliance, victim impact, risk assessment, etc.). This information would then be utilized by the judge to render a judgment as to whether or not continued special sentence supervision is appropriate.

This is a joint recommendation of the PSAB and the Sex Offender Research Council.

### **Appropriate use of Risk Assessments for Drug Traffickers<sup>4</sup>**

As a result of a 2011 analysis on the effects of mandatory minimums for drug traffickers, the PSAB recommends that a validated risk assessment be made a standard part of pre-sentence investigation reports and that sufficient training is provided to those in the criminal justice system (defense, prosecutors, and the judiciary) so that they are utilized appropriately.

### **Continuation of Study of Juvenile Sentencing Options in Adult Court**

Due to recent legislative changes, including the passage of an act in 2013 relating to the sentencing options available to the court for juveniles on youthful offender status, the PSAB will continue to study the impact of juvenile sentences in adult court and any disproportionate impact on racial minorities.

### **Changes to Iowa's Child Kidnapping Laws<sup>5</sup>**

A 2013 analysis revealed that while child kidnapping in Iowa is rare, a review of the effectiveness of kidnapping laws reveals weaknesses in Iowa's Criminal Code. Currently, the Code does not distinguish between adult and child victims and does not provide for penalty enhancements for repeat offenders. The PSAB believes Iowa's Criminal Code should be strengthened by addressing these weaknesses.

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<sup>3</sup>[https://humanrights.iowa.gov/sites/default/files/media/An%20Analysis%20of%20the%20Sex%20Offender%20Special%20Sentence%20in%20Iowa\\_2014%5B1%5D.pdf](https://humanrights.iowa.gov/sites/default/files/media/An%20Analysis%20of%20the%20Sex%20Offender%20Special%20Sentence%20in%20Iowa_2014%5B1%5D.pdf)

<sup>4</sup>[https://www.humanrights.iowa.gov/sites/default/files/media/PSAB\\_MandatoryMinimumReport2011%5B1%5D.pdf](https://www.humanrights.iowa.gov/sites/default/files/media/PSAB_MandatoryMinimumReport2011%5B1%5D.pdf)

<sup>5</sup><https://humanrights.iowa.gov/sites/default/files/media/Child%20Kidnapping%20Report%20FY2014-Final%5B1%5D.pdf>

The PSAB specifically noted that Iowa Code §710.3 is narrowly defined and rarely imposed, as it penalizes only kidnapping involving a ransom or dangerous weapon. This section of the Code should be revised to include language making non-parental/custodial kidnapping of a child/minor or any subsequent kidnapping conviction an automatic Class B felony subject to the mandatory minimum contained in §902.12.

Additionally, policymakers should clearly define the age of the child/minor so as not to exclude minor victims over the age of 14, as many kidnapping victims are in their mid-teens.

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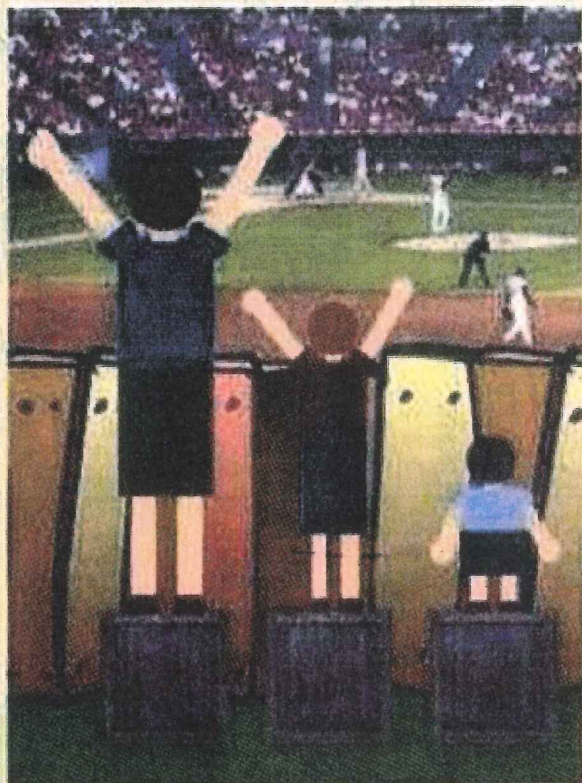
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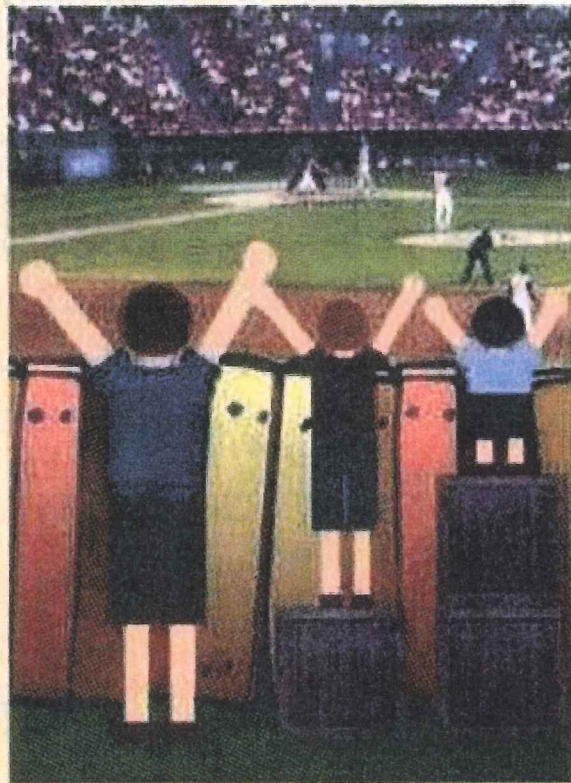
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# Equality doesn't mean Justice



This is Equality



This is Justice





# Juvenile Justice Advisory Council

Iowa Department of Human Rights  
Division of Criminal and Juvenile Justice Planning

October 15, 2015

To: Governor's Working Group on Justice Policy Reform

The Iowa Juvenile Justice Advisory Council (JJAC) supports the confidentiality of all juvenile court records and juvenile arrest reports in Iowa.

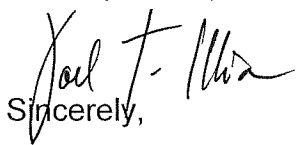
The JJAC agrees with the U.S. Supreme Court in a number of decisions (*Roper v. Simons*, *Graham v. Florida*, *Miller v. Alabama*) recognizing that youth are different than adults, are more malleable, and amenable to treatment. When this is coupled with the original goal of the juvenile court to rehabilitate and reintegrate youth into society, it is vital that Iowa stop allowing public access to juvenile court records. Even when a youth's juvenile court records are sealed or expunged, in the electronic age of the internet and data mining, those juvenile court records are still accessible. The negative effects include restricting their access to:

- education,
- housing,
- employment,
- military service.

Each of these restrictions limits the opportunities for youth to become successful members of society.


It is the belief of the JJAC that public access of juvenile court records and law enforcement records relating to the arrest of a youth create long term consequences for the youth. Members of the JJAC support cross-agency sharing of juvenile records between court, law enforcement, schools, treatment providers and designated research agencies to provide the necessary supports, services and research for youth.

Thank you for your support and interest in juvenile justice issues.



Sincerely,

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